



July 14, 2008

BY ECF AND REGULAR MAIL

The Honorable Peter K. Leisure
United States District Judge
United States District Courthouse
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Meisel v. Grunberg, et al.
07 Civ. 11610 (PKL)

Dear Judge Leisure:

We are counsel to Michael Grunberg, Fanny Grunberg and Ariel Grunberg, defendants in the above referenced matter.

Plaintiff's complaint in this action purports to state claims against defendants for fraud, breach of fiduciary duty and negligent misrepresentation in connection with plaintiff's sale of his minority interest in a real estate partnership to two of the defendants. On April 11, 2008, the defendants moved to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(6). That motion is currently pending before Your Honor.

Since the motion was submitted, the parties have engaged in discovery and plaintiff has produced documents that we believe preclude any possible claim of fraud and/or negligent misrepresentation. More specifically, we believe that email communications produced by plaintiff belie any contention that plaintiff in any way relied on representations allegedly made by defendants when plaintiff sold his partnership interest to two of the defendants or that, as a matter of law, any purported reliance could be deemed reasonable. Accordingly, we are writing to request permission from the Court to supplement defendants' motion papers so that the Court can consider the emails when deciding defendants' motion to dismiss. *In re Union Carbide Corp. Consumer Products Business*, 666 F. Supp 547 (S.D.N.Y. 1987)(supplemental submission permitted in connection with motion to dismiss).

While we are aware that Rule 12 motions are directed to the sufficiency of the pleadings, it is well established that in deciding such motions courts may rightfully consider written documents which are integral to the complaint. *Sable v. Southmark Envicon Capital Corp.*, 819 F. Supp. 324, 3328 (S.D.N.Y. 1993) *quoting*, *Meyer Pincus & Associs., P.C. v. Oppenheimer & Co.*, 936 F. 2d 759, 762 (2d Cir. 1991). Moreover, we believe that the disposition of this matter will be advanced if the Court considers the subject materials.

NEW YORK OFFICE:

1350 BROADWAY
NEW YORK, NY 10018
TEL: 212. 216. 8000
FAX: 212. 216. 8001

NEW JERSEY OFFICE:

475 WALL STREET
PRINCETON, NJ 08540
TEL: 609. 683. 9494
FAX: 609. 683. 7490

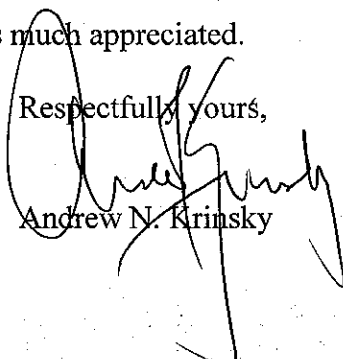
MAIL@TARTERKRINSKY.COM
WWW.TARTERKRINSKY.COM

The Honorable Peter K. Leisure
July 14, 2008
Page 2

Pincus & Associs., P.C. v. Oppenheimer & Co., 936 F. 2d 759, 762 (2d Cir. 1991).
Moreover, we believe that the disposition of this matter will be advanced if the Court considers the subject materials.

Your consideration of this request is much appreciated.

Respectfully yours,


Andrew N. Krinsky

cc: Matthew Giger, Esq.